

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEE ARTHUR BENTLEY,

Petitioner,

v.

CASE NO. 2:21-CV-10303
HON. ARTHUR J. TARNOW

GARY MINIARD,

Respondent.

/

SHOW CAUSE ORDER

This is a habeas case brought pursuant to 28 U.S.C. § 2254. Michigan prisoner Lee Arthur Bentley, through counsel, filed a habeas petition raising claims concerning newly-discovered evidence and actual innocence, judicial impartiality, the constructive deprivation of counsel during the pre-trial period, the non-disclosure of evidence, and ineffective assistance of trial and appellate counsel. ECF No. 1. Upon initial screening the Court dismissed the petition without prejudice on exhaustion grounds. ECF No. 3. The Court subsequently granted reconsideration and reopened the case after Petitioner's counsel informed the Court that he has a motion for relief

from judgment before the state trial court which had been pending for nearly two years. ECF No. 5. In July, 2021, Respondent moved to stay its answer and informed the Court that while the motion for relief from judgment has been pending in the state trial court since July, 2019, it has not been languishing. ECF No. 8. Rather, the state trial court ordered briefing by the parties, oral argument was scheduled, two hearings were held, and then additional scheduled hearings were adjourned per counsel's request and due to the pandemic court closure. A July 23, 2020 state court docket entry indicates that counsel would re-notice the hearing, but no such action has occurred. ECF No. 8, PageID.790-792, ECF No. 8-1. Petitioner's counsel has not filed a reply to Respondent's motion.

Accordingly, the Court orders Petitioner's counsel to show cause within **30 DAYS** of the filing date of this order why this case should not be dismissed without prejudice on exhaustion grounds, for the reasons stated in the Court's original dismissal order, given that he has failed to reply to Respondent's motion and given that he has failed to prosecute the motion for relief from judgment in the state trial court.

IT IS SO ORDERED.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Dated: September 30, 2021